BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

BEVERLY MILLER Claimant	
VS.))) Docket No. 177,696
LOVE'S COUNTRY STORE Respondent))
AND	\
CNA INSURANCE COMPANY Insurance Carrier	

ORDER

Respondent appeals from a July 19, 1994, Preliminary Hearing Order entered by Administrative Law Judge Shannon S. Krysl, granting claimant's request for benefits.

ISSUES

Respondent's Application for Review, raises two issues:

- (1) Whether claimant's accident arose out of and in the course of her employment with the respondent;
- (2) Whether timely written claim was made.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

K.S.A. 44-534a confers upon the Appeals Board the authority to review preliminary findings which address the above enumerated issues. Based upon the evidence presented and for purposes of preliminary hearing, the Appeals Board finds as follows:

Claimant has not established by a preponderance of evidence that her present request for medical treatment is due to accidental injury which arose out of and in the

course of her employment with respondent. The Appeals Board finds that claimant suffered an intervening accident at home on April 15, 1993. That accident did serve to aggravate her previous work-related injury of April 6, 1992 but nevertheless, it constitutes a separate, intervening act such that her present complaints are not compensable as a natural and probable consequence of the original injury.

By finding claimant's current complaints are not the result of the work-related accident, the Appeals Board need not reach the second issue of whether a timely claim was made.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Preliminary Hearing Order of Administrative Law Judge Shannon S. Krysl, dated July 19, 1994, should be, and is hereby, reversed.

II IS SO ORDERED.
Dated this day of March, 1995.
BOARD MEMBER
BOARD MEMBER
BOARD MEMBER

cc: Carlton Kennard, Pittsburg, KS Anton C. Andersen, Kansas City, KS Shannon S. Krysl, Administrative Law Judge George Gomez, Director